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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 LUV N' CARE, LTD.

8 Plaintiff,

9 v.

10 LINDSAY LAURAIN, *et al.*,

11 Defendants.

Case No. 2:18-cv-02224-JAD-GWF

ORDER

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13 This matter is before the Court on Plaintiff's Motion to Compel (ECF No. 1), filed
14 November 19, 2018. To date, no response has been filed and the time for which has passed.

15 Plaintiff request an order compelling third-party Blue Basin Medical, LLC ("Blue
16 Basin") to produce documents responsive to a Subpoena to Produce Documents, Information or
17 Objects or to Permit Inspection of Premises in Civil Action ("Subpoena") issued out of the
18 United States District Court for the Western District of Louisiana¹.

19 The affidavit of service indicates Plaintiff served the Subpoena by delivering a copy to
20 Blue Basin's registered agent on July 12, 2018. *See Motion* (ECF No. 1), *Exhibit 8*. Plaintiff's
21 counsel represents that to date, Blue Basin has been wholly unresponsive to the Subpoena. *See*
22 *Motion* (ECF No. 1), *Exhibit 2*. Plaintiff's counsel further indicates that on October 16, 2018, he
23 sent a letter ("Meet and Confer Letter") to Blue Basin regarding its lack of response to the
24 Subpoena and proposing dates and times for a meet and confer conference. This letter was
25 served on Blue Basin's registered agent. *Id.* Plaintiff's counsel represents Plaintiff has received
26 no response to either the Subpoena or the Meet and Confer Letter. To date, no party has
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28 ¹ In the matter pending as *Luv N' Care, LTD v. Lindsey Laurain, et al.*, Case No. 3:16-cv-00777-TAD-JPM.

1 responded to this motion and the time for opposition has now passed. LR 7-2(d) reads in
2 pertinent part, that “[t]he failure of an opposing party to file points and authorities in response to
3 any motion shall constitute a consent to the granting of the motion.” As a result, the Court will
4 grant the present motion.

5 Additionally, Plaintiff argues it is entitled to recover attorney’s fees incurred as a result of
6 this Motion, pursuant to Rule 45. Federal Rule of Civil Procedure 45(g) permits the court to
7 hold in contempt a person who, having been served, fails without adequate excuse to obey the
8 subpoena or an order related to it. The Court will therefore grant Plaintiff’s request for
9 attorney’s fees. Accordingly,

10 **IT IS HEREBY ORDERED** that Plaintiff’s Motion to Compel (ECF No. 1) is **granted**.

11 **IT FURTHER ORDERED** that Blue Basin shall produce all responsive documents,
12 requested by the topics set forth in the Subpoena no later than **December 28, 2018**.

13 **IT FURTHER ORDERED** as follows:

14 1. Plaintiff is entitled to an award of reasonable attorney’s fees and costs incurred in
15 filing the instant motion. Plaintiff’s counsel shall, no later than fourteen (14) days from the entry
16 of this order, up to and including **January 2, 2019**, serve and file a memorandum, supported by
17 affidavit of counsel, establishing the amount of attorney’s fees and costs incurred. The
18 memorandum shall provide a reasonable itemization and description of work performed, identify
19 the attorney(s) or staff member(s) performing the work, the customary fee of the attorney(s) or
20 staff member(s) for such work, and the experience, reputation and ability of the attorney
21 performing the work. The attorney’s affidavit shall authenticate the information contained in the
22 memorandum, provide a statement that the bill has been reviewed and edited, and a statement
23 that the fees and costs charged are reasonable.

24 2. Counsel for Blue Basin shall have fourteen (14) days from service of the memorandum
25 of costs and attorney’s fees, up to and including **January 16, 2019**, in which to file a responsive
26 memorandum addressing the reasonableness of the costs and fees sought, and any equitable
27 considerations deemed appropriate for the court to consider in determining the amount of costs
28 and fees which should be awarded

1 3. Counsel for Plaintiff shall have seven (7) days from service of the responsive
2 memorandum, up to and including **January 23, 2019**, in which to file a reply.

3 **IT FURTHER ORDERED** that the hearing currently scheduled for Thursday,
4 December 27, 2018 at 9:30 AM shall be vacated.

5 Dated this 19th day of December, 2018.



6 GEORGE FOLEY, JR.
7 UNITED STATES MAGISTRATE JUDGE
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